

CONTRACT #11
RFS # 318.65-216
FA # 07-17090-00

Finance & Administration
Bureau of TennCare

VENDOR:
ACS State Healthcare, LLC



STATE OF TENNESSEE
BUREAU OF TENNCARE
310 Great Circle Road
NASHVILLE, TENNESSEE 37243

RECEIVED
SEP 26 2008
FISCAL REVIEW

September 26, 2008

Mr. Jim White, Director
Fiscal Review Committee
8th Floor, Rachel Jackson Bldg.
Nashville, TN 37243

Attention: Ms. Leni Chick

RE: Bureau of TennCare Contract Amendments
ACS State Healthcare, LLC – Amendment #2
Electronic Data Systems, LLC – Amendment #7

Dear Mr. White:

The Department of Finance and Administration, Bureau of TennCare, is submitting for consideration by the Fiscal Review Committee amendment #2 to ACS State Healthcare, LLC. This contract provides a toll-free Call Center to enable TennCare enrollees who need to request assistance in receiving necessary medical care, and gather information as specified by TennCare for follow-up and resolution of medical issues and appeals. This amendment provides necessary language modifications, including clarifying procedures for after hours emergency calls, assistance for the Spanish speaking population on TennCare, and updating service level measurements expected from the Contractor. This amendment is language modification only and requires no additional funding.

Additionally, the Bureau of TennCare is submitting amendment #7 to Electronic Data Systems, LLC (EDS). EDS is a competitively bid contract that developed, implemented and replaced the TennCare Management Information System (TCMIS) and is currently working to transition a new contractor in place to assume TCMIS management effective April 1, 2009. The Bureau of TennCare released a Request for Proposal to identify a contractor to assume the TennCare Management Information System (TCMIS), with actual assumption of duties initially to begin January 1, 2009. Ultimately a new contractor was identified, however, one of the unsuccessful proposers filed a protest with the State regarding the procurement. This protest was determined to be unfounded, allowing TennCare to move forward with awarding the contract, however, the protest resulted in lengthy delays that prolonged the date that the new contractor will be transitioned into the system and capable of assuming full operational capabilities of TCMIS. As a result, TennCare needs EDS to continue in their role for an additional three months to totally allow for complete transition. This amendment extends the term for three months to allow the new contractor to assume all duties associated with TCMIS services.

September 26, 2008
Mr. Jim White
Fiscal Review Committee
Page 2

The Bureau of TennCare would greatly appreciate the consideration and approval of these amendments by the Fiscal Review Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Pierce", followed by a long horizontal line extending to the right.

Scott Pierce
Chief Financial Officer

cc: Darin J. Gordon, Deputy Commissioner
Alma Chilton, Contract Coordinator

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

RECEIVED

SEP 26 2008

FISCAL REVIEW

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	318.65-216	
2) State Agency Name :	Department of Finance and Administration Bureau of TennCare	
EXISTING CONTRACT INFORMATION		
3) Service Caption :	Call Center for TennCare Enrollees	
4) Contractor :	ACS State Healthcare, LLC	
5) Contract #	FA-07-17090-00	
6) Contract Start Date :	November 1, 2006	
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	October 31, 2009	
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$3,545,980.00	
PROPOSED AMENDMENT INFORMATION		
9) <u>Proposed</u> Amendment #	r2	
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	December 15, 2008	
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	October 31, 2009	
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$3,545,980.00	
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
ACS is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. This amendment is language change only, no term extension or funding required. The necessary contract modifications include: Section A.2 is amended to address "after hours emergencies" -- those calls deemed urgent in nature and received after hours.... will be addressed by the Contractor by placing outgoing calls. Currently, a TennCare staff member on-call after normal business hours handles these urgent calls, but once the contract is amended, contractor staff will perform this work instead.		

The contractor will include these outgoing calls at their normal call rate per the contract; Section A.3. addresses the need to communicate with Spanish-speaking TennCare members about their medical appeals. TennCare will use the contractor's Spanish-speaking staff during normal business hours to place outgoing calls to Spanish-speaking members for clarification about their medical appeals; Section A.9, Attachment 1 and Attachment 3, are being amended to correct a service level measurement for Average speed of answer from target of 20 seconds to target of 60 seconds, correcting the original 20 seconds measurement carried over from another service level.

15) Explanation of Need for the Proposed Amendment :

TennCare is amending the Call Center contract to implement language changes to address after hour emergency calls, more effectively communicate with Spanish-speaking TennCare members, and update service level measurements expected from the Contractor.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

ACS is a Limited Liability Company
Michael M. Davis, Chief Operating Officer
9040 Roswell Road
Atlanta, Georgia 30350

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one: ☒ Documentation Not Applicable to this Request ☐ Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one: ☒ Documentation Not Applicable to this Request ☐ Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one: ☒ Documentation Not Applicable to this Request ☐ Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

ACS is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. An RFP was released by TennCare and ACS was the competitive winner.

21) Justification for the Proposed Non-Competitive Amendment :

ACS is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. An RFP was released by TennCare and ACS was the competitive winner. TennCare is proposing an amendment that will establish language changes that will more effectively utilize the services of the Contractor as well as update target times expected from Contractor. The Bureau of TennCare would greatly appreciate a favorable response to this request by the Department of F&A and the Fiscal Review Committee.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)

Agency Head Signature

Date

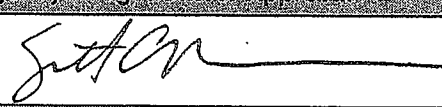
C O N T R A C T S U M M A R Y S H E E T

021406

RFS #	Contract #
318.65-216-07	FA-07-17090-02
State Agency	State Agency Division
Department of Finance and Administration	Bureau of TennCare
Contractor Name	Contractor ID # (FEIN or SSN)
ACS State Healthcare, LLC	C- or X V- 582479287 01

Service Description			
Call Center for TennCare			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
November 1, 2006	October 31, 2009	vendor	93.778 Dept. of Health & Human Services/Title XIX

Mark Each TRUE Statement					
X Contractor is on STARS			X Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
318.65	066	083	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007	\$295,234.00	\$295,234.00			\$590,468.00
2008	\$690,466.00	\$690,466.00			\$1,380,932.00
2009	\$590,466.00	\$590,466.00			\$1,180,932.00
2010	\$196,824.00	\$196,824.00			\$393,648.00
TOTAL	\$1,772,990.00	\$1,772,990.00			\$3,545,980.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Scott Pierce 310 Great Circle Road Nashville, TN 37243 (615) 507-6415
2007	\$590,468.00		State Agency Budget Officer Approval 
2008	\$1,380,932.00		
2009	\$1,180,932.00		
2010	\$393,648.00		
	\$590,468.00		
TOTAL	\$3,545,980.00	\$0.00	Funding Certification (certification required by T.C.A. § 9-4-5113 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
End Date	October 31, 2009	October 31, 2009	

Contractor Ownership (complete only for base contracts with contract # prefix FA or GR)			
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> OTHER minority/disadvantaged—			
Contractor Selection Method (complete for ALL base contracts — N/A to amendments or delegated authorities)			
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method	
<input type="checkbox"/> Non-Competitive Negotiation	Negotiation w/ Government (e.g., ID, GG, GU)		<input type="checkbox"/> Other
Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)			

**AMENDMENT #2 TO FA-07-17090-00
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
ACS STATE HEALTHCARE, LLC**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and ACS State Healthcare, LLC, hereinafter referred to as the "Contractor," for the provision of incoming toll-free call center to address questions about TennCare services from TennCare enrollees, is hereby amended as follows:

1. Amend the Contract by deleting Section A.2. in its entirety and substituting with the following:
 - A.2. The Contractor shall provide documentation of medical issues and appeals on electronic (application based) Caller Information Sheets as provided by TennCare, to be submitted to the Administrative Solutions Unit (ASU) of TSU. Handwritten forms are not acceptable except as permitted in writing by the Bureau of TennCare. On business days between the hours of 6 a.m. and 6 p.m. Central Time, Caller Information Sheets shall be submitted at TennCare designated intervals. Caller Information Sheets for calls received between the hours of 6 p.m. and 6 a.m. or on weekends/holidays shall be submitted at the first TennCare designated interval the next business day. The Contractor shall develop and implement a process for hourly and daily/weekend reconciliation of Caller Information Sheets submitted to ASU. After hours emergencies will be addressed in accordance with defined policies and procedures. Those calls deemed urgent in nature and received "after hours" at times other than non-holiday 8:00a.m. – 5:00 p.m., Monday through Friday, will be addressed by the Contractor by placing outgoing calls to TennCare designated authorities on behalf of the TennCare member. Such outgoing calls will be documented on the Caller Information Sheet. The Bureau of TennCare shall have the ability to review representative samplings of Caller Information Sheets, using the TennCare Call Center Quality Data Gathering Evaluation Form (see Attachment 2, Exhibit B) as its measure in meeting TennCare Standards. The Caller Information Sheets shall document the following (unless the caller is unable/unwilling to provide such information):
 - A.2.a. Time of Call;
 - A.2.b. Date of Call;
 - A.2.c. Enrollee's name, address, and daytime phone;
 - A.2.d. Enrollee's social security number;
 - A.2.e. Enrollee's date of birth;
 - A.2.f. Name of person calling (may be different than enrollee), address, and daytime phone;
 - A.2.g. Caller's relationship to enrollee (when applicable);
 - A.2.h. Detailed explanation of the caller's issue and desired resolution; and
 - A.2.i. Other information as specified on the Caller Information Sheet for the particular type of medical issue or appeal.
2. Amend the Contract by deleting Section A.3. in its entirety and substituting with the following:
 - A.3. The Contractor shall provide 24-hour assistance to callers in both English and Spanish. The Contractor shall ensure that English-speaking representatives are fluent in English, Spanish-speaking representatives are fluent in Spanish, and that all representatives can be easily understood by English and Spanish-speaking callers respectively for whom such language is the callers' primary spoken language. Assistance to Spanish-speaking callers may be provided in the following manner: at minimum, the Contractor shall provide Spanish-speaking representatives on-site during the hours of 8:00am-5:00pm,

Monday through Friday. Only at times other than 8:00am-5:00pm, Monday through Friday, may the Contractor utilize a TennCare-approved Interpreter Service to provide interpretation to Spanish-speaking callers. During the hours of 8:00am-5:00pm, Monday through Friday, the Contractor shall provide Spanish interpretation assistance to the Administrative Solutions Unit (ASU) by making outgoing calls to Spanish-speaking TennCare members to clarify and obtain additional information about their medical appeals. The Contractor shall also utilize foreign language assistance lines provided by a consumer advocacy program which is another of the State's contracted vendors, in an effort to provide assistance to other non-English speaking enrollees. These lines include Arabic, Bosnian, Kurdish-Badinani, Kurdish-Sorani, Somali, and Vietnamese. The Contractor will also maintain 24-hour access to a TTY/TDD line.

3. Amend the Contract by deleting Section A.9. in its entirety and substituting with the following:

A.9. The Contractor shall provide adequate staff to meet the following Call Service Levels:

- Call abandonment rate: target of 5% or less
- Average speed of answer: target of 60 seconds or less
- Average waiting time in queue: target of less than 2 minutes
- Total number of calls answered: target of 80% of calls answered within 20 seconds

4. Amend Contract Attachment 1 by deleting Exhibit B, Call Center Performance Report, in its entirety and substituting the new Revised Contract Attachment 1, Exhibit B, Call Center Performance Report, attached hereto.

5. Amend Contract Attachment 3 by deleting Item 3, Performance Deficiencies, in its entirety and substituting with the following:

<p>3. Performance Deficiencies:</p> <p>Failure to meet Service Levels as specified below and in Section A.9.</p> <p>Call abandonment rate: target of 5% or less over a seven (7)-day average</p> <p>Average speed of answer: target of 60 seconds or less over a seven (7)-day average</p> <p>Average waiting time in queue: target of less than 2 minutes over a seven (7)-day average</p> <p>Total number of calls answered: target of 80% of calls answered within 20 seconds over a seven (7)-day average.</p>	<p>\$500 for each seven (7)-day increment. Segments shall be counted on an overlapping basis, i.e., 1st-7th, 2nd-8th, 3rd-9th, etc.</p>
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The revisions set forth herein shall be effective December 15, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

ACS STATE HEALTHCARE, LLC

Michael M. Davis, Chief Operating Officer

Date

**DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE**

M. D. Goetz, Jr., Commissioner

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr., Commissioner

Date

COMPTROLLER OF THE TREASURY:

John G. Morgan, Comptroller of the Treasury

Date

REVISED ATTACHMENT 1
Exhibit B Call Center Performance Report

For Date _____ or Weekly Period

Ending: _____

Performance Indicators/ACD Statistics	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Total
Total Number of Appeal Representatives Receiving Calls								
Number of Calls Received 8:00AM – 5:00PM (business hours)								
Number of Calls Received 5:01 PM – 7:59AM (after hours)								
Total Number of Calls Offered/Received								
Total Number of Calls Abandoned								
Abandon percentage								
Average Delay to Abandon (ADA)								
Abandonment Rate (Target 5% or less)								
Average Speed of Answer (ASA) (Target 60 seconds or less)								
Total Number of Calls Answered (Target 80:20 – 80% of calls answered within 20 seconds)								
Average Total Length of Call (including queue and hold time)								
Average Waiting Time in Queue (Target <2 minutes)								
Average Manned Time (talk time only—also included in above)								
Average Hold Time								
Average Handle Time (Call time plus after call work)								



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE**

320 Sixth Avenue, North – 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Rep. Charles Curtiss, Chairman

Representatives

Curt Cobb	Donna Rowland
Curtis Johnson	David Shepard
Gerald McCormick	Curry Todd
Mary Pruitt	Eddie Yokley
Craig Fitzhugh, <i>ex officio</i>	
Speaker Jimmy Naifeh, <i>ex officio</i>	

Sen. Douglas Henry, Vice-Chairman

Senators

Doug Jackson	Reginald Tate
Bill Ketron	Jamie Woodson
Paul Stanley	
Randy McNally, <i>ex officio</i>	
Lt. Governor Ron Ramsey, <i>ex officio</i>	

M E M O R A N D U M

TO: The Honorable Dave Goetz, Commissioner
Department of Finance and Administration

FROM: Charles Curtiss, Chairman, Fiscal Review Committee *cc*
Bill Ketron, Chairman, Contract Services Subcommittee *BK*

DATE: July 31, 2007

SUBJECT: **Contract Comments**
(Contract Services Subcommittee Meeting 7/31/07)

RFS# 318.65-216

Department: Finance & Administration/Bureau of TennCare

Contractor: ACS State Healthcare, LLC

Summary: This vendor is responsible for the provision of a 24-hour toll-free call center for TennCare enrollees to address concerns regarding assistance in receiving medical necessary care, follow-up information, and resolution of medical issues and appeals. The proposed amendment provides funding, at a cost of \$200,000, for modifications to the system as a result of changes to the TennCare state plan or any waiver amendments.

Maximum liability: \$3,345,980

Maximum liability w/amendment: \$3,545,980

After review, the Fiscal Review Committee voted to recommend approval of the contract amendment.

cc: The Honorable Darin Gordon, Deputy Commissioner
Mr. Robert Barlow, Director, Office of Contracts Review

C O N T R A C T S U M M A R Y S H E E T

021406

RFS #		Contract #	
318.65-216-07		FA-07-17090-01	
State Agency		State Agency Division	
Department of Finance and Administration		Bureau of TennCare	
Contractor Name		Contractor ID # (FEIN or SSN)	
ACS State Healthcare, LLC		C- or X V- 582479287 01	
Service Description			
Call Center for TennCare			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
November 1, 2006	October 31, 2009	vendor	93.778 Dept. of Health & Human Services/Title XIX

Mark Each TRUE Statement

X Contractor is on STARS

X Contractor's Form W-9 is on file in Accounts

Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
318.65	066	083	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2007	\$295,234.00	\$295,234.00			\$590,468.00
2008	\$690,466.00	\$690,466.00			\$1,380,932.00
2009	\$590,466.00	\$590,466.00			\$1,180,932.00
2010	\$196,824.00	\$196,824.00			\$393,648.00
TOTAL:	\$1,772,990.00	\$1,772,990.00			\$3,545,980.00

RECEIVED

AUG 28 2008

FISCAL REVIEW

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Scott Pierce 310 Great Circle Road Nashville, TN 37243 (615) 507-6415 State Agency Budget Officer Approval Funding Certification (certification required by T.C.A. § 9-4-5113 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
2007	\$590,468.00		
2008	\$1,180,932.00	\$200,000.00	
2009	\$1,180,932.00		
2010	\$393,648.00		
	\$590,468.00		
TOTAL:	\$3,345,980.00	\$200,000.00	
End Date:	October 31, 2009		

Contractor Ownership (complete only for base contracts with contract # prefix: FA or GR)

<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT minority/disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—	

Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
<input type="checkbox"/> Non-Competitive Negotiation	Negotiation w/ Government (e.g., ID, GG, GU)	<input type="checkbox"/> Other

Procurement Process Summary (complete for selection by Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)

**AMENDMENT #1 TO FA-07-17090-00
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
ACS STATE HEALTHCARE, LLC**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and ACS State Healthcare, LLC, hereinafter referred to as the "Contractor," for the provision of incoming toll-free call center to address questions about TennCare services from TennCare enrollees, is hereby amended as follows:

1. Delete Section A.3 in its entirety and replace with the following:
 - A.3. The Contractor shall provide 24-hour assistance to callers in both English and Spanish. The Contractor shall ensure that English-speaking representatives are fluent in English, Spanish-speaking representatives are fluent in Spanish, and that all representatives can be easily understood by English and Spanish-speaking callers respectively for whom such language is the callers' primary spoken language. Assistance to Spanish-speaking callers may be provided in the following manner: at minimum, the Contractor shall provide Spanish-speaking representatives on-site during the hours of 8:00am through 5:00pm, Monday through Friday. Only at times other than 8:00am-5:00pm, Monday through Friday, may the Contractor utilize a TennCare-approved Interpreter Service to provide interpretation to Spanish-speaking callers. The Contractor shall also utilize foreign language assistance lines provided by a consumer advocacy program which is another of the State's contracted vendors, in an effort to provide assistance to other non-English speaking enrollees. These lines include Arabic, Bosnian, Kurdish-Badinani, Kurdish-Sorani, Somali, and Vietnamese. The Contractor will also maintain 24-hour access to a TTY/TDD line.
2. Add the following new language as A.22.c:
 - A.22.c. TennCare shall be responsible for actual costs of application modifications that require State plan or waiver amendments.
3. Delete Section C.1 in its entirety and replace with the following:
 - C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Million Five Hundred Forty-Five Thousand Nine Hundred Eighty Dollars (\$3,545,980.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

4. Delete C.3 in its entirety and replace with the following:

C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:


<u>SERVICE UNIT/MILESTONE</u>	<u>AMOUNT</u>
On-Site Training (December 1, 2006 – December 31, 2006)	\$ 1.00 Per Day for each Staff Member
Call Center Service	\$ 11.35 Per Call
Software Enhancements and Modifications (A.22.c)	Actual Cost Incurred

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

All other terms and conditions of this contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

ACS State Healthcare, LLC



Michael M. Davis, Chief Operating Officer
Pat Ross, SVP

8-27-07

Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE



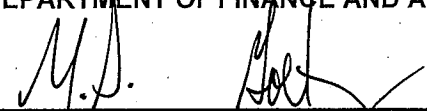
M. D. Goetz, Jr., Commissioner

8/29/07

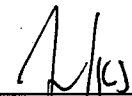
Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

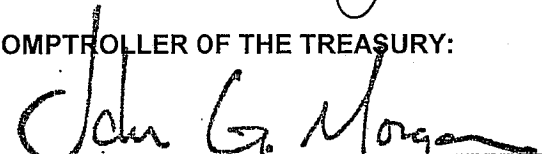


M. D. Goetz, Jr., Commissioner



Date 9/2/07

COMPTROLLER OF THE TREASURY:



John G. Morgan, Comptroller of the Treasury

9/11/07

Date

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	318.65-216	
2) State Agency Name :	Department of Finance and Administration Bureau of TennCare	
EXISTING CONTRACT INFORMATION		
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10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	Upon Execution of Amendment Explanation Attached	
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12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$3,545,980.00	
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
14) Description of the Proposed Amendment Effects & Any Additional Service :		
ACS is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. An RFP was released by TennCare and ACS was the competitive winner. Currently, the payment methodology in the contract is based on a per call rate. During the course of the contract it has become apparent that		

due to State plan or waiver amendments that require system application modifications, the Contractor is charged with significant costs to make these application adjustments. Therefore, TennCare is amending the contract to establish language allowing these modifications and provide funding to support the changes as requested.

15) Explanation of Need for the Proposed Amendment :

Currently, the payment methodology in the contract is based on a per call rate. During the course of the contract it has become apparent that due to State plan or waiver amendments that require system application modifications, the Contractor is charged with significant costs to make these application adjustments. Therefore, TennCare is amending the contract to establish language allowing these modifications and provide funding to support the changes as requested.

16) Name & Address of Contractor's Current Principal Owner(s) :

(not required if proposed contractor is a state education institution)

ACS is a Limited Liability Company
Michael M. Davis, Chief Operating Officer
9040 Roswell Road
Atlanta, Georgia 30350

17) Documentation of Office for Information Resources Endorsement :

(required only if the subject service involves information technology)

select one:

☒ Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :

(required only if the subject service involves training for state employees)

select one:

☒ Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

19) Documentation of State Architect Endorsement :

(required only if the subject service involves construction or real property related services)

select one:

☒ Documentation Not Applicable to this Request

☐

Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

ACS is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. An RFP was released by TennCare and ACS was the competitive winner.

21) Justification for the Proposed Non-Competitive Amendment :

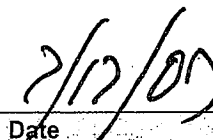
ACS is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. An RFP was released by TennCare and ACS was the competitive winner. TennCare is proposing an amendment that will establish scope of service language and funding to support the system changes brought about as a result of State Plan and waiver changes that necessitate application changes. The Bureau of TennCare would greatly appreciate a favorable response to this request by the Department of F&A and the Fiscal Review Committee.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)



Agency Head Signature



Date

JUSTIFICATION

ACS State Healthcare, LLC is a competitively awarded contract that provides a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, gathering information as specified by TennCare for follow-up and resolution of medical issues and appeals. An RFP was released by TennCare and ACS was the competitive winner. Currently, the payment methodology in the contract is based on a per call rate. During the course of the contract it has become apparent that due to State plan or waiver amendments that require system application modifications, the Contractor is charged with significant costs to make these application adjustments. Therefore, TennCare is amending the contract to establish language allowing these modifications and provide funding to support the changes as requested. For these reasons, it is TennCare's request that this amendment become effective immediately upon execution.



STATE OF TENNESSEE
BUREAU OF TENNCARE
310 Great Circle Road
NASHVILLE, TENNESSEE 37243

July 17, 2008

Mr. Jim White, Director
Fiscal Review Committee
8th Floor, Rachel Jackson Bldg.
Nashville, TN 37243

Attention: Ms. Leni Chick

RE: Bureau of TennCare
Contracts Submitted for Fiscal Review

RECEIVED
JUL 18 2007
FISCAL REVIEW

Dear Mr. White:

The Department of Finance and Administration, Bureau of TennCare, is submitting for consideration by the Fiscal Review Committee amendment #1 to ACS State Healthcare, LLC, RFS 318.65-216. This competitively bid contract was awarded to ACS to provide a Call Center for TennCare enrollees to address their concerns regarding assistance in receiving necessary medical care, accessing information as specified by TennCare for follow-up, and resolution of medical issues and appeals. The payment methodology in the current contract is based on a per call rate, however, during the course of this contract, it has become apparent that occasional system applications modifications are necessary to accommodate changes to the TennCare State Plan or any waiver amendments. Therefore, TennCare is amending the contract to establish language allowing these modifications and provide funding to support the changes requested.

Additionally, TennCare is submitting amendment #5 to First Health Services Corporation, the competitively awarded contract for TennCare's Pharmacy Claims Processing and Preferred Drug List Development and Management. Per language in the Request for Proposal and eventual awarded contract, TennCare is exercising our option to extend this contract for an additional six months. The payment rates established in the previous referenced RFP have been negotiated and reduced, therefore less funds will be spent on the continuation of services for this six month period of time. No additional funding is required to proceed with this extension of services.

Mr. Jim White
July 17, 2008
Page 2

The three Behavioral Health Organizations (BHOs) listed below are being amended to establish rates that will be in effect for the remainder of the Fiscal Year. Due to the fact that the rates for medical and behavioral services are provided to TennCare through the services of an independent actuary, TennCare was unable to provide these newly established rates in time to the Contractor for review prior to completion of the previous term amendment. Therefore, this amendment proposes the actual, agreed upon rates that will be in effect for the remainder of FY '08.

Premier Behavioral Health Systems of TN, LLC	FA-01-14662-19
Tennessee Behavioral Health, Inc.	FA-05-16089-09
Tennessee Behavioral Health, Inc.	FA-01-14661-18

The Bureau of TennCare would greatly appreciate the consideration and approval of these amendments by the Fiscal Review Committee.

Sincerely,



Scott Pierce
Chief Financial Officer

cc: Darin J. Gordon, Deputy Commissioner
Alma Chilton, Contract Coordinator

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
ACS STATE HEALTHCARE, LLC**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and ACS State Healthcare, LLC, hereinafter referred to as the "Contractor," is for the provision of incoming toll-free call center to address questions about TennCare services from TennCare enrollees, as further defined in the "SCOPE OF SERVICES."

The Contractor is Limited Liability Company. The Contractor's address is:

9040 Roswell Road, Atlanta, Georgia 30350

The Contractor's place of incorporation or organization is Delaware.

A. SCOPE OF SERVICES:

- A.1. The Contractor will provide knowledgeable, trained staff for a toll free call center responding to an estimated average of 1800 calls per week from enrollees located on-site at the Bureau of TennCare, 310 Great Circle Road, Nashville, TN. The center will utilize first-in/first-out/longest available call queing, provide initial triage, ensure appropriate referral to other entities for non-medical appeals-related questions and concerns, address concerns of TennCare enrollees who request assistance in receiving necessary medical care, and gather information as specified by TennCare for follow-up and resolution of medical issues and appeals. Medical issues and appeals shall include, but are not limited to, assistance on behalf of enrollees in requesting an MCO (health plan) change, MCO change status, resolution of problems with pharmacy and/or medical services and care, reimbursement and billing issues, and checking status of medical appeals.
- A.1.a. The Contractor shall ensure that staff are trained and knowledgeable in all aspects regarding appropriate customer service skills, written communication skills, and technical/computer operating skills.
- A.1.b. The Contractor shall ensure that staff participate in training provided by TennCare in all aspects regarding the TennCare Waiver, TennCare rules and policies, and all applicable workflows, policies, and procedures pertaining to medical appeals processing, and that staff are trained and knowledgeable in these areas.
- A.2. The Contractor shall provide documentation of medical issues and appeals on electronic (application based) Caller Information Sheets as provided by TennCare, to be submitted to the Administrative Solutions Unit (ASU) of TSU. Handwritten forms are not acceptable except as permitted in writing by the Bureau of TennCare. On business days between the hours of 6 a.m. and 6 p.m. Central Time, Caller Information Sheets shall be submitted at hourly intervals. Caller Information Sheets for calls received between the hours of 6 p.m. and 6 a.m. or on weekends/holidays shall be submitted by 6 a.m. the next business day. The Contractor shall develop and implement a process for hourly and daily/weekend reconciliation of Caller Information Sheets submitted to ASU. After hours emergencies will be addressed in accordance with defined policies and procedures. The Bureau of TennCare shall have the ability to review representative samplings of Caller Information Sheets, using the TennCare Call Center Quality Data Gathering Evaluation Form (see Attachment 2, Exhibit B) as its measure in meeting TennCare Standards.

The Caller Information Sheets shall document the following (unless the caller is unable/unwilling to provide such information):

- A.2.a. Time of Call;

- A.2.b. Date of Call;
- A.2.c. Enrollee's name, address, and daytime phone;
- A.2.d. Enrollee's social security number;
- A.2.e. Enrollee's date of birth;
- A.2.f. Name of person calling (may be different than enrollee), address, and daytime phone;
- A.2.g. Caller's relationship to enrollee (when applicable);
- A.2.h. Detailed explanation of the caller's issue and desired resolution; and
- A.2.i. Other information as specified on the Caller Information Sheet for the particular type of medical issue or appeal.
- A.3. The Contractor shall provide 24-hour assistance to callers in both English and Spanish. The Contractor shall ensure that English-speaking representatives are fluent in English, Spanish-speaking representatives are fluent in Spanish, and that representatives can be easily understood by English and Spanish-speaking callers respectively for whom such language is their primary spoken language. The Contractor shall utilize foreign language assistance lines provided by a consumer advocacy program which is another of the State's contracted vendors, in an effort to provide assistance to other non-English speaking enrollees. These lines include Arabic, Bosnian, Kurdish-Badinani, Kurdish-Sorani, Somali, and Vietnamese. The Contractor will also maintain 24-hour access to a TTY/TDD line.
- A.4. Using a TennCare-provided phone system, the Contractor will record and sort the nature of calls and inquiries received from TennCare enrollees. This data shall be reported to the Bureau of TennCare on a daily and weekly basis for the first two (2) weeks of the project and may subsequently be provided on a weekly basis with written agreement from TennCare. The Contractor shall also provide summary data for all data elements upon completion of the project. Attachment 1, Reporting Requirements, Exhibits A-B, including expected Service Levels, illustrate the initial format and data to be included in the abovementioned reports. Such data elements may be modified upon written notification from TennCare. The following is a matrix that provides the report name, frequency and due dates.

Report Name	Frequency	Due Date
Call Center Call Type Report	daily and weekly basis for the first two (2) weeks of the project; may subsequently be provided on a weekly basis with written agreement from TennCare	Daily by 10:00 a.m. Central time the following business day Weekly by 10:00 a.m. Central time Monday (or the first business day of the week) Project summary within 30 days following completion of project
Call Center Performance Report	daily and weekly basis for the first two (2) weeks of the project; may subsequently be provided on a weekly basis with written agreement from TennCare	Daily by 10:00 a.m. Central time the following business day Weekly by 10:00 a.m. Central time Monday (or the first business day of the week) Project summary within 30 days following completion of project

- A.5. In addition to minimum data report elements specified in Attachment 1 (or as amended with written notification from TennCare), the Contractor shall provide reports which detail call distribution throughout the business day as well as after-hours as requested by TennCare.
- A.6. The contractor shall be located on the State's premises and shall provide service 24 hours/7 days per week, including weekend and holiday coverage.

- A.7. The Contractor shall ensure that no long distance calls are accepted by the Call Center nor will the contractor authorize payment of any long distance calls received by the Call Center. All calls received by the Call Center must be Toll Free.
- A.8. The Contractor shall provide adequate staff for "live" answering services, except as permitted in writing by TennCare. Service by machine or other than "live" is otherwise not acceptable.
- A.9. The Contractor shall provide adequate staff to meet the following Call Service Levels:
- Call abandonment rate: target of 5% or less
 - Average speed of answer: target of 20 seconds or less
 - Average waiting time in queue: target of less than 2 minutes
 - Total number of calls answered: target of 80% of calls answered within 20 seconds
- A.10. The Contractor shall utilize the State's phone system to provide informational (e.g., TennCare benefit changes, appeal information, referral entities and contact numbers) queue messages for TennCare enrollees waiting to speak with a call center representative. Upon request by the State, the Contractor will also utilize Outbound Automatic Call system functions in order to efficiently contact groups of callers with specific pre-recorded messages. The Contractor in collaboration with the State will develop the language for the informational queue messages and any pre-recorded messages used.
- A.11. The Contractor shall utilize the State's phone system to digitally record all calls for review and quality assurance purposes. The Bureau of TennCare will maintain the ability to review live calls and shall have the ability to listen to recorded calls and/or a representative sampling thereof for review, using the TennCare Call Center Quality Call Evaluation Form (see Attachment 2, Exhibit A) as its measure in meeting TennCare standards.
- A.12. The Contractor shall monitor employee performance, including productivity, quality and call handling techniques, accuracy in call resolution, and accuracy in data entry, using standards provided by TennCare. The Contractor shall also track the number of FTE on the project per hour, as well as staff attendance and adherence to schedules and breaks. Such data shall be reviewed by the Contractor on at least a monthly basis and shall be available to the State upon request. The Contractor shall ensure that performance issues are promptly addressed, with corrective actions reported to the State upon request.
- A.13. The Contractor shall provide Quality Control personnel who are specially trained in TennCare Program knowledge to continually monitor call center representatives and shall use advanced supervisory controls for listening, recording, and agent/queue performance monitoring. Quality monitoring reports shall be provided on at least a monthly basis including quality audit percentages. TennCare may request modifications to Contractor's training and QC plans and/or processes to improve the quality and efficiency of call center operations and to ensure that performance and or operational issues are promptly addressed.
- A.14. TennCare retains the authority to request dismissal of Contractor staff from this project based on performance deficiencies and/or lack of knowledge/skills/demonstrated expertise necessary to perform contracted activities.
- A.15. The Contractor shall maintain confidentiality as outlined in sections E.13 and E.19 of this contract.
- A.16. The Bureau of TennCare shall provide initial start-up training for the Contractor on TennCare phone system operations and reporting functions.

- A.17. TennCare will provide the Contractor read-only access to basic TennCare InterChange system information, MCO assignment, and benefit package assignment for the sole purpose of verifying such information for the enrollee in response to enrollee medical questions and concerns.
- A.18. The Bureau of TennCare shall provide InterChange training and technical assistance regarding how to appropriately verify enrollee dates of service, MCO assignment, and benefit package assignment.
- A.19. The Bureau of TennCare shall pay the annual licensure fee for InterChange application access for the purpose of verifying enrollee eligibility, MCO assignment, and benefit package assignment.
- A.20. TennCare shall provide the following for on-site call center staff:
 - A.20.a. Data and voice system connectivity to the TennCare's information and communication systems and ongoing technical support for data and voice systems provided by the State.
 - A.20.b. General operating supplies (e.g., tablet, loose leaf and copier paper, file folders, fasteners, writing instruments, etc.)
 - A.20.c. Printing and reproduction costs as they relate to policy and procedure manuals and training materials.
- A.21. TennCare Information Systems shall maintain hardware and software that is used by the Contractor on the State's premises, including personal computer workstations, workstation printers, network printers, network file server(s). This shall include, but not be limited to, the installation of hardware and software needed to support the operations of the call center, including access to the network. Deployment of applications, application changes and upgrades will need to be coordinated with TennCare Information Systems staff. TennCare Information Systems shall direct and coordinate with the Office of Information Resources regarding network and server support and will work jointly with the Contractor on all related issues.
- A.22. The Contractor shall provide and operate software applications as necessary to collect and record caller information. TennCare shall have Information Systems staff that shall be involved in the configuration and implementation of all aspects of any applicable applications deemed necessary to collect and record caller information.
 - A.22.a. TennCare Information Systems staff shall interface with vendors, OIR and the contractor to ensure maximum performance of said applications, over the State network or on State-provided hardware.
 - A.22.b. TennCare Information Systems staff shall provide the Contractor written request for any changes needed to said applications
- A.23. The Contractor shall provide staff equipped with current technical subject matter expertise for purposes of providing technical assistance services regarding call center operations.
- A.24. The Contractor shall be responsible to identify and timely notify the State of any technical problems associated with either Contractor-provided systems or TennCare-provided systems that impact the Contractor's ability to perform contracted activities.
- A.25. The Contractor shall maintain call tracking systems, including but not limited to:
 - A.25.a. Implementing new technologies and methods that are generally available (not in alpha test, beta test, or trials of any form unless explicitly approved by the State office of the CIO and TennCare office of the CIO) and shall improve the Contractor's ability to meet reporting responsibilities. Such implementations of technologies and methods must be approved by TennCare, and if judged to be necessary by TennCare, the State.

- A.25.b. Implementing modifications to technologies and methods that are necessary to preserve any interoperability with State and TennCare systems and facilities necessary for the Contractor to meet reporting responsibilities. This includes maintaining communications with the State and TennCare sufficient to be aware of and prepared for any changes to the technological environment of the State and TennCare.
- A.25.c. Updating call center systems' components such that they are based on recent technologies and methods that are generally available in conformance with state standards and the State Architecture and supported by the suppliers and not subject to sunseting or termination of support for a period of not less than twelve (12) calendar months.
- A.26. Call center systems and components thereof, incorporated by any means such as but not limited to licenses for use or purchase for ownership, shall become the exclusive property of TennCare and the State upon termination of the Contract regardless of the reason for termination.
- A.27. Disaster Preparedness and Recovery. The Contractor must submit a Business Continuity/Disaster Recovery Plan prior to the effective date of this Contract. Such plan must provide for seamless operation of all contracted activities and call center functionality as specified herein. The back-up contact center must have multi-media ACD and remote access via a telephone and simple Internet connection. The Plan must contain documentation that it has been tested and the results must be submitted, if requested, by TennCare. The plan must be able to meet the requirements of any applicable state and federal regulations, the TennCare Bureau and Tennessee's Office for Information Resources (OIR).

The Contractor's Business Continuity/Disaster Recovery Plan must include sufficient information to show that they meet the following requirements:

- i. Documentation of emergency procedures that include steps to take in the event of a natural disaster by storm, fire, water damage, sabotage, criminal action, bomb threats, etc. This documentation must be in the form of a formal Disaster Recovery Plan. The Contractor will apply recognized industry standards governing Disaster Preparedness and Recovery including the ability to continue processing in the event that the central site is rendered inoperable. There shall be no time at which calls are not answered.
 - ii. Contractor employees at the site must be familiar with the emergency procedures.
- A.28. The Contractor shall have appropriate staff to support call volume recruited and to be ready to begin training on-site at TennCare headquarters, 310 Great Circle Road, Nashville, Tennessee. Contractor's staff training will be conducted by TennCare staff from December 1 through December 31, 2006 to ensure each operator's readiness to begin taking calls on January 1, 2007 on-site at TennCare headquarters, 310 Great Circle Road, Nashville, Tennessee. Training will include the TennCare InterChange system, basic TennCare Program policy and process, and detailed TennCare Medical Appeals policy and process.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on November 1, 2006 and ending on October 31, 2009. On Site Training will be conducted December 1 – December 31, 2006 with implementation of services to begin January 1, 2007. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least sixty (60) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the

increase in the State's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Million Three Hundred Forty-Five Thousand Nine Hundred Eighty Dollars (\$3,345,980.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE UNIT/MILESTONE</u>	<u>AMOUNT</u>
On-Site Training (December 1, 2006 – December 31, 2006)	\$ 1.00 Per Day for each Staff Member
Call Center Service	\$ 11.35 Per Call

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.

- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- D. STANDARD TERMS AND CONDITIONS:
- D. STANDARD TERMS AND CONDITIONS:
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document as Attachment 4, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to state officials upon request.
- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

D.9. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives:

D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth

below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Deputy Commissioner
Tennessee Department of Finance and Administration
310 Great Circle Road
Nashville, Tennessee 37243
(615) 507-6362 (phone)
(615) 532-5236 (fax)

The Contractor:

Patrick M. Ross
Senior Vice President
ACS State Healthcare, LLC
9040 Roswell Road
Atlanta, Georgia 30350
(678) 352-7200 (phone)
(678) 352-8339 (fax)

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.4. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

For purposes of this contract, these items shall hereinafter be referred to as a "Breach."

- a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

- (1) In event of a Breach by Contractor, the state shall have available the remedy of Actual Damages and any other remedy available at law or equity.
- (2) Liquidated Damages— In the event of a Breach, the State may assess Liquidated Damages. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and

covenants it has carefully reviewed the Liquidated Damages contained in above referenced, Attachment 3 and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

- (3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken

- (4) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. **State Breach**— In the event of a Breach of contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.
- E.5. **Partial Takeover.** The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least thirty (30) days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.6. **State Ownership of Work Products.** The State shall have all ownership right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, installed, or delivered to the State under this Contract. The State shall have royalty-free and unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all said work products. The Contractor shall furnish such information and data upon request of the State, in accordance with the Contract and applicable State law.
- E.7. **Printing Authorization.** The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.8. **State Furnished Property.** The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.9. **Workpapers Subject to Review.** The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.10. **Lobbying.** The Contractor certifies, to the best of its knowledge and belief, that:
- No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and

the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

- E.11. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.12. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.
- E.13. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.14. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

- E.15. Public Accountability. If this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor agrees to display a sign stating:

"NOTICE: This Contractor is a recipient of taxpayer funding. if you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.

- E.16. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, et. seq., the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

- E.17. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principles:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within-in a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
- see attached memo* **(PNA)**

- E.18. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA

and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.

- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.19. Offer of Gratuities. By signing this Contract, the Contractor signifies that no member of or a delegate of Congress, nor any elected or appointed official or employee of the State of Tennessee, the General Accounting Office, Department of Health and Human Services, CMS, or any other federal agency has or will benefit financially or materially from this procurement. This Contract may be terminated by TennCare if it is determined that gratuities of any kind were offered to or received by any of the aforementioned officials or employees from the Contractor, his agent, or employees and may result in termination of the Contract as provided in Section D.4.

E.20. Tennessee Bureau of Investigation Medicaid Fraud and Abuse Unit (MFCU)
Access to Contractor and Provider Records Office of TennCare Inspector General (OIG) Access to Contractor, Provider, and Enrollee Records

Pursuant to the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations, MFCU and TennCare OIG shall be health oversight agencies as defined at 45 C.F.R. §§ 164.501 and 164.512(d) and 65 F.R. § 82462. When acting in their respective capacities as health oversight agencies, MFCU and TennCare OIG do not need authorization to obtain enrollee protected health information (PHI). Because MFCU and TennCare OIG will request the information mentioned above for health oversight activities, "minimum necessary" standards do not apply to disclosures to MFCU or TennCare OIG that are required by law. See 45 C.F.R. §§ 164.502(b)(2)(iv), 164.502(b)(2)(v), and 164.512(d).

The Contractor shall immediately report to MFCU all factually based known or suspected fraud, abuse, waste and/or neglect of a provider or Contractor, including, but not limited to, the false or fraudulent filings of claims and/or the acceptance or failure to return money allowed or paid on claims known to be false or fraudulent. The Contractor shall not investigate or resolve the suspicion, knowledge or action without informing MFCU, and must cooperate fully in any investigation by MFCU or subsequent legal action that may result from such an investigation.

The Contractor shall, upon request, make them available to MFCU or TennCare OIG. In addition, the MFCU must be allowed access to the place of business and to all TennCare records of any Contractor during normal business hours, except under special circumstances when after hour admission shall be allowed. MFCU shall determine any and all special circumstances.

The Contractor shall report TennCare enrollee fraud and abuse to TennCare OIG. The Contractor may be asked to help and assist in investigations by providing requested information and access to records. Shall the need arise, TennCare OIG must be allowed access to the place of business and to all TennCare records of any TennCare Contractor, during normal business hours.

The Contractor shall inform its subcontractors that as a condition of receiving any amount of TennCare payment, the subcontractor must comply with this Section of this Contract regarding fraud, abuse, waste and neglect.

E.21. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's proposal responding to RFP-318.65-216 (Attachment 6.3, Section B, Item B.13.) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and

persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Business Diversity Enterprise in form and substance as required by said office.

IN WITNESS WHEREOF:

ACS State Healthcare, LLC


Patrick M. Ross, Senior Vice President

10-16-06
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

MD Goetz Jr / scf
M. D. Goetz, Jr., Commissioner

10-17-06
Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M.D. Goetz, Jr. / scf
M. D. Goetz, Jr., Commissioner

OCT 20 2006
Date

COMPTROLLER OF THE TREASURY:

John G. Morgan
John G. Morgan, Comptroller of the Treasury

10/27/06
Date

ATTACHMENT 1
Exhibit A Call Center Call Type Report

For Date _____ or Weekly Period Ending: _____

TennCare Enrollee Call/Inquiry/Request Type	Total	Percentage of Total Calls Received
Total Number of Calls Received		
Number of Calls Received on Spanish Line (also included in above)		
Number of Calls Received from other Non-English Speaking Callers (also included in total calls above)		
Callers Needing Assistance in Arabic		
Callers Needing Assistance in Bosnian		
Callers Needing Assistance in Kurdish-Badinani		
Callers Needing Assistance in Kurdish-Sorani		
Callers Needing Assistance in Somali		
Callers Needing Assistance in Vietnamese		
Number of TTY/TDD Calls Received (also included in total calls above)		
Total Number of Calls Referred		
Calls Referred to TennCare Partners Advocacy Line		
Calls Referred to Health Assist Tennessee (advocacy line)		
Calls Referred to Safety Net Resources		
Calls Referred to Medicare		
Calls Transferred/Referred to Other Foreign Language Assistance Lines		
Calls Referred to Other Entities (such as providers and MCCs)		
Calls Resolved with Agent-Provided Information		
Total Number of Calls resulting in Issue Forms Transmitted to TennCare		
MCO Change Requests		
Pharmacy Issues		
Medical Services Issues		
Pharmacy Reimbursement and Billing Issues		
Medical Services Reimbursement and Billing Issues		
More facts about Pharmacy Appeal		
More facts about Non-Pharmacy Appeal		
Call Back Issues		
Checking Status of MCO Change Request		
Checking Status of Pharmacy Appeal		

Checking Status of Medical Services Appeal		
Checking Status of Reimbursement/Billing Appeal		
Other Call Back Issues		
Total Number After Hours Emergency Pages Made to On-Call Staff		
Total Number of Calls Unresolved		
Other-Irate Customer		
Other-Wrong Number		
Other-Hang Up		
Other- Training/Testing		
Other		

ATTACHMENT 1
Exhibit B Call Center Performance Report

For Date _____ or Weekly Period Ending: _____

Performance Indicators/ACD Statistics	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Total
Total Number of Appeal Representatives Receiving Calls								
Number of Calls Received 8:00AM – 5:00PM (business hours)								
Number of Calls Received 5:01 PM – 7:59AM (after hours)								
Total Number of Calls Offered/Received								
Total Number of Calls Abandoned								
Abandon percentage								
Average Delay to Abandon (ADA)								
Abandonment Rate (Target 5% or less)								
Average Speed of Answer (ASA) (Target 20 seconds or less)								
Total Number of Calls Answered (Target 80:20 – 80% of calls answered within 20 seconds)								
Average Total Length of Call (including queue and hold time)								
Average Waiting Time in Queue (Target <2 minutes)								
Average Manned Time (talk time only—also included in above)								
Average Hold Time								
Average Handle Time (Call time plus after call work)								

ATTACHMENT 2
Exhibit A

**TENNCARE CALL CENTER QUALITY
CALL EVALUATION FORM**

Answer each question, and provide comments to justify your rating.

Agent Evaluated: _____ Date of Call: _____

CUSTOMER SERVICE SKILLS	RATING	COMMENTS
1. Does the operator use an appropriate greeting? • Does the operator identify TSU? • Does the operator introduce him/herself?	Yes _____ 10 pts. No _____ 0 pts.	
2. Is the operator courteous, clear, and patient? • Does the operator give full attention to the caller? • Does the operator speak in a courteous and friendly manner? • Does the operator speak in clear language free of jargon?	Yes _____ 10 pts. No _____ 0 pts.	
3. Does the operator make an appropriate closure to the call? • Does the operator thank the caller for calling? • Does the operator exercise sensitivity to the caller's situation and demeanor (does not instruct them to "have a good day" if they are ill, etc.)?	Yes _____ 10 pts. No _____ 0 pts.	
TECHNICAL SKILLS	RATING	COMMENTS
4. Does the operator give correct information? • Is the operator familiar with TennCare policy/process? • Does the operator apply program knowledge accurately?	Yes _____ 20 pts. No _____ 0 pts.	
5. Does the operator identify the caller's issue(s) correctly?	Yes _____ 20 pts. No _____ 0 pts.	
6. Does the operator take the correct action(s)?	Yes _____ 20 pts. No _____ 0 pts.	
CALL CONTROL / PROFESSIONALISM	RATING	COMMENTS
7. Does the operator stay in control of the call? • Does the operator avoid offering advice or counseling? • Does the operator keep the caller on-task? • Does the operator avoid arguments and confrontation?	Yes _____ 10 pts. No _____ 0 pts.	
TOTAL POINTS:		Actual points= %

QC Reviewer(signature only): _____ Date of Review: _____

ATTACHMENT 2
Exhibit B

TENNCARE CALL CENTER QUALITY
DATA GATHERING EVALUATION FORM

Answer each question, and provide comments to justify your rating.

Agent Evaluated: _____ Date of Call: _____

	RATING	COMMENTS
1. Is the caller/member's demographic information (name, SSN, address, etc) correctly recorded?	Yes _____ 5 pts. No _____ 0 pts.	
2. Is the correct form used?	Yes _____ 5 pts. No _____ 0 pts.	
3. Are all applicable fields completed accurately?	Yes _____ 5 pts. No _____ 0 pts.	
4. Is the caller's "reason for appeal", issue, or explanation of call written in a clear and concise manner?	Yes _____ 5 pts. No _____ 0 pts.	
TOTAL POINTS:		20 pts= 100% 15pts= 75% 10 pts= 50% 5 pts= 25%

QC Reviewer(signature only): _____ Date of Review: _____

ATTACHMENT 3 LIQUIDATED DAMAGES

The State may choose the following remedy in the event the Contractor fails to properly perform its obligations under this Contract in a proper and/or timely manner. Upon determination that the Contractor is not completing one or more of the services described in Section A under this Contract in a proper and/or timely manner, the State will notify the Contractor in writing of the deficiency. The Contractor must work to immediately correct such deficiency and shall provide at least weekly documentation of diligent efforts to correct the deficiency along with at least weekly updates regarding the status of resolution. The Contractor shall have thirty (30) calendar days from the date of notification to provide proof that such deficiency has been fully resolved to the satisfaction of the state. Should the deficiency remain more than thirty (30) days from notification by the State, the State may impose liquidated damages as described below. The liquidated damages may be retroactive to the date of notice of deficiency and continue until such time as the Deputy Commissioner of TennCare determines the deficiency has been cured. The liquidated damages will be deducted from the monthly payments to the Contractor.

	PROGRAM ISSUES	DAMAGE
1.	Failure to provide at least weekly documentation of diligent efforts to correct a deficiency and/or failure to provide at least weekly updates regarding the status of resolution upon notification of such deficiency by the State. Segments shall be counted on a consecutive basis, beginning on the day of week upon which notification of such deficiency was provided.	\$500 per week
2.	For <i>each</i> deficiency which remains unresolved more than thirty (30) days from notification by the State. The Deputy Commissioner of TennCare shall determine when a deficiency has been satisfactorily cured.	\$500 per day
3.	<p>Performance Deficiencies:</p> <p>Failure to meet Service Levels as specified below and in Section A.9.</p> <p>Call abandonment rate: target of 5% or less over a seven (7)-day average</p> <p>Average speed of answer: target of 20 seconds or less over a seven (7)-day average</p> <p>Average waiting time in queue: target of less than 2 minutes over a seven (7)-day average</p> <p>Total number of calls answered: target of 80% of calls answered within 20 seconds over a seven (7)-day average</p>	\$500 for each seven (7)-day increment. Segments shall be counted on an overlapping basis, i.e., 1 st -7 th , 2 nd -8 th , 3 rd -9 th , etc.

4.	<p>Quality Deficiencies:</p> <p>Call Quality to meet TennCare evaluation standards as referenced in Section A.11 and outlined in Attachment 2, Exhibit A, Call Evaluations.</p> <p>Failure to meet a weekly call evaluation rating of at least 80%, based on averaged evaluation ratings from a weekly random sample of at least 1% of total recorded calls.</p>	<p>\$500 for each seven (7)-day increment. Segments shall be counted on a consecutive basis, beginning on Monday of each week.</p>
5.	<p>Quality Deficiencies:</p> <p>Data Gathering Quality to meet TennCare evaluation standards as referenced in Section A. 2 and outlined in Attachment 2, Exhibit B, Data Gathering Evaluations.</p> <p>Failure to meet a weekly data gathering evaluation rating of at least 80%, based on averaged evaluation ratings from a weekly random sample of at least 1% of total completed Caller Information Sheets.</p>	<p>\$500 for each seven (7)-day increment. Segments shall be counted on a consecutive basis, beginning on Monday of each week.</p>

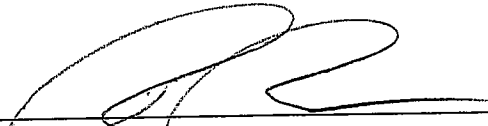
ATTACHMENT 4

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	ACS STATE HEALTHCARE, LLC
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	58-2479287

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

SIGNATURE & DATE:

 10-16-06 Patrick M. Ross

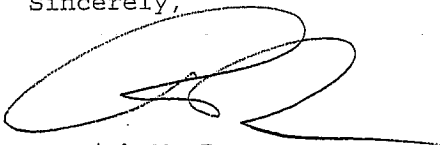
NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president; this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

Alma Chilton
Contract Coordinator
Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

In order to clarify the meaning of Contract Section E.17-d, based on your October 16, 2006 e-mail communication to Chuck Klusener of ACS, we understand that the section does not pertain to contract default terminations in general, but specifically pertains to contract default terminations associated with illegal, fraudulent or criminal activities only. This letter shall be incorporated by reference into the Contract.

We sincerely look forward to partnering with TennCare on this important initiative.

Sincerely,



10-16-06

Patrick M. Ross
Senior Vice President
ACS State Healthcare, LLC

MD Goetz Jr / scf
10-20-06